IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14731 of 2006

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BHARVAD GOPALBHAI VELABHAI - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR GAURANG H BHATT for the Petitioner.
Mr. H.L.Jani, Assistant Government Pleader for the Respondents.

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CORAM : HONOURABLE MR.JUSTICE DN PATEL

Date : 05/09/2006

ORAL ORDER

The present petition has been preferred under Article 226 of the Constitution of India against unilateral and arbitrary decision dated 6th June, 2006 taken by the Collector, Surendranagar (Annexure “F” to the memo of the petition).

2. I have heard the learned counsels for both the sides and looking to the facts and circumstances of the case, in my view, the order/decision dated 6th June, 2006 passed by the Collector, Surendranagar,

whereby the order which passed in favour of the petitioner dated 17th March, 2006 (Annexure “D” to the memo of the petition) which permits the petitioner of excavating sand from survey no. 154/1 Bhogava, admeasuring 2 hectares, has been cancelled, requires to be quashed and set aside for the following facts and reasons:

(i) It is stated by the learned advocate for the petitioner that upon an application preferred by the petitioner, which is at Annexure “A” to the memo of the petition, to the Collector of Surendranagar, the petitioner was given order/permission/licence dated 17th March, 2006 for quarry lease from survey no.154/2 Bhogava for a period of three years. Necessary fees etc. have also been deposited by the petitioner. This order was also brought into effect for some months and thereafter, without giving any opportunity of being heard, unilaterally and upon some recommendation by an ex MLA of Limdi, the Collector, Surendranagar has withdrawn the order dated 17th March, 2006 vide his order dated 6th June, 2006. Admittedly,

no opportunity of being heard was given to the petitioner by the Collector, Surendranagar, a bare necessity of rule of law in such type of cases of opportunity of being heard to the petitioner. Such a plain and simple opportunity of natural justice has not been observed by the Collector Surendranagar. Therefore, the impugned decision dated 6th June, 2006 taken by the Collector, Surendranagar is an arbitrary decision and requires to be quashed and set aside.

3. As a cumulative effect of the aforesaid facts and reasons, the decision dated 6th June, 2006 of the Collector, Surendranagar is held to be arbitrary and unilateral as it is taken without affording an opportunity of being heard to the petitioner and consequently, it is hereby quashed and set aside. The Collector, Surendranagar is hereby directed to pass an appropriate order after giving an opportunity of being heard to the petitioner. It will be open for the petitioner to raise all possible and permissible contentions under law before the

Collector, Surendranagsar, including his authority to cancel or review the quarry lease granted to the petitioner vide Annexure “D” to the memo of the petition. Rule made absolute with no order as to costs. Direct service permitted.

(D.N.Patel,J)

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